

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESAL PRICE LITIGATION

)
)
) MDL NO. 1456
) Civil Action No. 01-12257-PBS

THIS DOCUMENT RELATES TO
01-CV-12257-PBS AND 01-CV-339

) Hon. Patti B. Saris
)
) Chief Mag. Judge Marianne B. Bowler

**DECLARATION OF ADEEL A. MANGI IN OPPOSITION TO OXFORD HEALTH
PLANS, LLC'S MOTION TO RESCHEDULE THE COURT'S HEARING ON
DEFENDANTS' MOTION TO COMPEL**

I, Adeel A. Mangi, declare as follows:

1. I am associated with Patterson Belknap Webb & Tyler LLP and represent Johnson & Johnson, Centocor Inc., and Ortho Biotech Products L.P. in this litigation. I offer this declaration in opposition to third party Oxford Health Plans' ("Oxford") motion to reschedule the hearing date on defendants' motion to compel, which was filed on May 3, 2006.

2. Pursuant to Case Management Order 20, Summary Judgment motions as to Class 3, as well as *Daubert* motions, are due on July 14, 2006. Oxford's discovery is needed in sufficient time to enable its use in briefing those motions. Oxford, however, has engaged in a prolonged campaign of delay. As catalogued in defendants' motion papers, this included ignoring not just defendants' counsel but even Oxford's own outside counsel for months, making repeated unfulfilled promises of production to stave off motions to compel, and failing to make complete production for over 2 years.

3. Oxford compounded this history by seeking multiple extensions in connection with this motion. First Oxford requested, and defendants consented to, an extension on its time

to file an opposition to this motion. As catalogued in defendants' previous papers, a condition of that extension was Oxford agreeing that opposition would be filed on the agreed date without further delay. When that date arrived, however, Oxford filed a motion seeking another extension in contravention of the agreement. That motion was granted and a two week extension secured. Now Oxford seeks yet another extension, this time on the hearing date.

4. Oxford has been represented in this matter by more than one counsel at the Groom Law Group. For example, defendants have been contacted by and have corresponded about this discovery with Mr. Lars Golumbic at the Groom Law Group, who was also copied on much of the correspondence with Mr. Prame. And Oxford has local counsel in Boston at Manchel & Brennan PC. These additional counsel for Oxford are fully familiar with these issues since they also represent Oxford's parent United Health Care, which was the subject of an almost identical motion to compel that was recently granted by the Court.

5. If the Court grants defendants motion, it is clear from Oxford's history that it will not comply immediately. Indeed, its parent United Health Care was ordered to produce documents and witnesses for deposition on February 2, 2006 and still has not fully complied. To secure this discovery from Oxford in time for its use in Summary Judgment and *Daubert* motions it is essential that this hearing proceed as scheduled.¹

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Adeel Mangi

Adeel A. Mangi

Executed on this 4th day of May 2006

¹ However, should the Court disagree and grant an extension, please note that I will out of the office on vacation from May 15-May 22, dates that were scheduled after the Court set the May 9 hearing date.

CERTIFICATE OF SERVICE

I certify that on May 4, 2006, a true and correct copy of the forgoing Declaration of Adeel A. Mangi in Opposition to Oxford Health Plans, LLC's Motion to Reschedule the Court's Hearing on Defendants' Motion to Compel was served on all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LexisNexis File & Serve for posting and notification to all parties. I further certify that on May 4, 2006 a copy was served on counsel for third party Oxford Health Plans via electronic service.

/s/ Adeel A. Mangi
Adeel A. Mangi